

(This is a facsimile of the original stipulation filed with the MPUC)

ATTACHMENT A

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 94-391

December 8, 1995

PUBLIC UTILITIES COMMISSION
Investigation of New England
Telephone & Telegraph Company's
(d/b/a NYNEX) Failure to Comply
with Title 35-A M.R.S.A., Section 802(l)

STIPULATION

New England Telephone and Telegraph Co. (d/b/a NYNEX, the Advocacy Staff of the Commission, the Office of Public Advocate and the Neighborhood Action Coalition, collectively referred to as the "Parties", submit this Stipulation to the Commission to resolve all outstanding issues in this proceeding, to avoid protracted litigation and unnecessary expense. The Parties have agreed to the following terms:

1. During the period of June, 1993 through February, 1994, NYNEX issued bills to those customers who subscribed to AT&T's optional calling plans and who made 1-900 calls (audiotext or pay-per-call services) to an AT&T-provided 900 number without categorizing those calls as non-basic service as required by Chapter 202 of the Commission's rules. As a result, an unidentified number of customers who did not pay for these 1900 calls by the due date received a disconnection notice for local service that included non-basic service, a violation of 35-A M.R.S.A. S 802 and Chapter 202 of the Commission's rules.
2. During the period March, 1994 through October 6, 1994, NYNEX issued bills to those customers who subscribed to AT&T's long distance service and placed a 1-900 call to an AT&T-provided 900 number without categorizing those calls as non-basic service as required by Chapter 202 of the Commission's rules. As a result, an unidentified number of customers who did not pay for these 1-900 calls on time received a disconnection notice for local service that included, in addition to outstanding basic charges, amounts for non-basic service, a violation of 35-A M.R.S.A. 802 and Chapter 202 of the Commission's rules.
3. As a result of the events described in Paragraphs 1 and 2, NYNEX disconnected an undetermined number of customers for failure to pay, in addition to outstanding basic charges, amounts for non-basic service, a-violation of 35-A M.R.S.A. § 802 and Chapter 202 of the Commission's rules.

- 4A. The improper billing described above was the result of changes made in AT&T billing practices and NYNEX's failure to recognize that those changes would cause the improper billing to occur. There is no indication that NYNEX was aware that the improper billing was occurring until August, 1994. NYNEX completed the steps necessary to correct these violations by October 6, 1994.
4. NYNEX does not maintain its computer records in a manner that would permit a search to be made according to the issuance of a disconnection notice or the disconnection event itself. The Parties agree, therefore, that it is impractical and highly unlikely that NYNEX could now identify those customers who received improper disconnection notices for charges which included non-basic service and those that were improperly disconnected.
5. NYNEX has attempted to estimate the number of customers who may have been disconnected improperly. Based on the volume of bills issued to NYNEX customers with AT&T calls, the estimated number of bills carrying 1-900 call charges and the disconnection ratio for all NYNEX residential customers, NYNEX has estimated that approximately 500 customers may have been improperly disconnected for charges which included non-basic service. An unknown number of additional customers received a disconnection notice for charges which included non-basic service but avoided disconnection either by paying the requested amount, including 1-900 call charges, or by entering into payment arrangements.
6. The Parties agree that because the affected customers cannot now feasibly be located or made whole, NYNEX should pay a sum of money in the amount of \$125,000 to be used for the following purpose:
 - A. Upon the approval of this Stipulation by the Commission, the Chairman of the Commission, the Public Advocate and Mr. Edward Dinan on behalf of NYNEX, shall each appoint one individual to serve as the initial members of the Board of the Directors of the Maine Telecommunications Education Fund ("Fund"). The purpose of this Fund is to enhance consumer understanding of telephone service and equipment options and the changing nature of telephone service generally. The specific objective of the Fund is to provide funding to projects that: (1) promote education and understanding in the area of telecommunications; and (2) help consumers understand the choices available to them in their service and equipment options and how to make educated choices concerning both regulated and unregulated telecommunications services. The Fund, however, will refrain from making specific service recommendations or endorsements which promote one carrier's service offerings over those of an alternative carrier.
 - B. The Board of Directors should incorporate the Fund as a non-profit corporation and obtain a tax exemption under Section 501 © (3) of the Internal Revenue Code.

The Fund should operate independently of the Parties to this proceeding.

- C. The Fund should operate for a minimum period of two years. While NYNEX is under no continuing obligation to make further contributions to the Fund, the Board of Directors may elect to continue the Fund's existence by seeking contributions from additional corporations and individuals, as described in paragraph H, below. The Board shall report by December 31st of each year to the Commission on its activities.
 - D. The Board of Directors shall permit no action to be taken by it or its grantees that would threaten the Fund's tax exempt or nonprofit status. Board members shall receive no salary, but may be reimbursed for actual and reasonable expenses associated with duties as Board members.
 - E. The Board shall act upon the majority vote of its members. The Board may hire whatever assistance it deems necessary to incorporate and obtain a tax-exempt status, maintain its books, and provide for proper recordkeeping.
 - F. By the end of the 1997 calendar year, or upon the disbursement and oversight associated with the implementation of its original funding, whichever comes first, the Board shall decide whether to disband the organization or seek to continue its existence. If the Board seeks to continue, it may change or expand its membership. The Board shall include its decision on these matters in its second annual report to the Commission.
 - G. NYNEX shall disburse its \$125,000 contribution to the Fund as follows:
 - 1) NYNEX shall pay the actual costs incurred by the Board to incorporate the Fund and obtain its tax-exempt status up to a total of \$2,500;
 - 2) NYNEX shall pay the balance of the \$125,000 contribution in two equal installments 6 months and then 12 months after the first meeting of the Board.
 - H. The Board of Directors may seek additional funding through personal and corporate donations to the Fund or through the receipt of public or private grants. The Board may authorize expenditures from the Fund for these purposes.
- 7 The Parties waive the prohibition against ex parte communications, as set forth in 5 M.R.S.A. § 9055 and related Commission rules, to the extent necessary to permit the Advocacy Staff, or any other party, to discuss this Stipulation and the resolution of this case, with the Commission, with or without the participation of any other party.

8. This agreement is made for settlement purposes only and shall have no precedential effect or other significance.
9. This agreement shall not become effective unless approved by the Commission.
10. The parties have entered into this agreement as an integrated document and urge the Commission to accept it in its entirety. If this agreement is modified or rejected by the Commission, each party reserves the right to withdraw from this agreement without prejudice.

Approved: (all parties signed stipulation)

Dated: December 8, 1995

Donald Boecke
Attorney, NYNEX

Stephen Ward
Public Advocate

Gilbert Brewer
Attorney for the Advocacy Staff

Skip Matson
Neighborhood Action Coalition